

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>DARIN DUNCAN,</b>	)(	
	)(	<b>CIVIL ACTION NO.: 4:09-CV-00715</b>
<b>Plaintiff,</b>		
<b>V.</b>	)(	
<b>UNIVERSITY OF TEXAS HEALTH</b>	)(	
<b>SCIENCE CENTER at HOUSTON,</b>	)(	
<b>Defendant.</b>		

**LT. DUNCAN'S OPPOSED MOTION TO AMEND SCHEDULING ORDER  
and TO EXPEDITE**

NOW COMES PLAINTIFF and moves the court to amend the scheduling order to allow for expert witness designation and to expedite a ruling and sets forth as follows:

**PROCEDURE**

Plaintiff suffers from major depression and was expelled in his fourth year from defendant medical school for circumstances arising from his condition. Plaintiff sued under various theories and the cause of action remaining is pursuant to the Rehabilitation Act.

A hearing on discovery matters was held on March 26, 2010. Plaintiff was compelled to serve responses to defendant's interrogatories and requests for production. Plaintiff has served the discovery responses. At the hearing it was brought up that plaintiff's expert designation date has passed and now plaintiff seeks to get a new date to designate experts such as the mental healthcare specialist who diagnosed Lt. Duncan with major depression. Plaintiff addressed the issue in Court and the Court suggested the filing of the instant motion.

Without such designation plaintiff will be severely prejudiced in bringing the instant action. Defendant will not be prejudiced in any manner by a change to the scheduling order regarding expert witness designation.

Plaintiff has requested no previous extension to the scheduling order.

Undersigned counsel, a solo practitioner, has been working on many cases including *Haven v. City of Houston, et al.*; 4:09-CV-00647 (U.S. Southern District of Texas); *Boyd, et al v. City of Houston* (U.S. Southern District of Texas); *Williams v. East Baton Rouge Parish Sheriff's Office, et al*; 09-148-JJB-SCR (U.S. Middle District of Louisiana); *Lagway v. City of Conroe, et al*; (U.S. Southern District of Texas); *State v. Cabrera* ; *State v. Paysinger*; *State v. Benavides* (3 cases); *Collazo v. Sheriff Garcia, et al* (U.S. Southern District of Texas); *Mendoza v. City of Freeport, Texas, et al* (U.S. Southern District of Texas); *Villasana v. City of Houston, et al* (U.S. Southern District of Texas); *Arlene Kelly v. Harris County, Texas* (State civil district court Harris County) and several other cases.

### **CONCLUSION & PRAYER**

Plaintiff respectfully requests that this motion be granted and that the plaintiff's expert designation be set for May 14, 2010, and for all other relief in law or equity.

RESPECTFULLY SUBMITTED,  
LAW OFFICE OF RANDALL L. KALLINEN

*/S/ Randall L. Kallinen*

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**CERTIFICATE OF CONFERENCE**

I certify that I have conferred in good faith by email with Mishell B. Kneeland and she was OPPOSED to the relief requested..

*/S/ Randall L. Kallinen*

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Randall L. Kallinen

**CERTIFICATE OF SERVICE**

I certify that I have served a true and correct copy of the foregoing and proceeding to all counsel and pro se parties listed below on this Monday, the 16<sup>th</sup> day of April, 2010.

Mishell B. Kneeland  
Assistant Attorney General  
Attorney in Charge  
General Litigation Division  
P.O. Box 12548, Capitol Station  
Austin, Texas 78711-2548

*/S/ Randall L. Kallinen*

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Randall L. Kallinen